

**Document Class:** MORTGAGES  
**Document Name:** Multi-jurisdictional Proportional Stamping Increase  
**Document Code:** 81A

### Mortgage Duty

No stamp duty is payable on a mortgage executed on or after 1 July 2009. This guide note applies to a mortgage dated on or before 30 June 2009 and the funds are advanced on or before 30 June 2009. For a mortgage dated on or after 1 July 2009 or dated pre 1 July 2009 but the funds are advanced on or after 1 July 2009, refer to the document heading:

[Exemptions – Mortgage/Discharge of Mortgage or Encumbrance – Non Dutiable Mortgage / Discharge \(MEX\)](#)

### Introduction

This guide note explains how stamp duty is calculated where a mortgagor borrows further monies against an existing mortgage and the liability secured by the mortgage now exceeds that amount to which the mortgage was previously stamped. In this situation the mortgage must be stamped with **further** duty to secure the additional liability of the mortgage.

A mortgage is defined at section 76 of the SD Act and includes a document creating, acknowledging, evidencing or recording a legal or equitable interest in, or charge over real or personal property as security for a liability.

Section 81B of the SD Act contains a provision for the stamping of a mortgage that secures property in South Australia and outside of South Australia.

**The following similar transactions cannot be stamped under this document heading:**

If the mortgage is a South Australian Real Property Act mortgage that is **not** for home acquisition or improvement purposes, it forms part of a package with interstate securities between the same parties, is to be stamped on a proportional basis and a further increase has occurred, refer to the document heading:

- [Mortgages – Increase – SA Land \(Proportional\) \(MIO\)](#)

### What *documents* can I stamp under this document heading?

The document will be in the form of:

- any document that is defined as a mortgage that secures property located **both** inside and outside of South Australia.

### What types of *transactions* can I stamp under this document heading?

A multi-jurisdictional mortgage is deemed **suitable** for self-stamping under this document heading where:

- the document secures property **both** inside and outside of South Australia;
- the mortgage is being used to secure further monies; and
- the increase is stamped on the prime mortgage or a copy of the prime mortgage.

### What stamp duty is payable on this document?

Stamp duty is calculated on the total South Australian proportion of the liability. The duty is calculated using the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act.

The stamp duty on the (increase in liability) is calculated by subtracting the duty previously paid\* from the duty payable on the new South Australian proportion of the liability.

\* If the rate of duty payable on the mortgage has changed since it was previously stamped then the further duty is to be calculated as if the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act has always applied.

A two step process is involved to calculate the stamp duty:

**Firstly**, calculate the new South Australian proportion as follows:

$$\frac{\text{value of South Australian assets secured by the mortgage}}{\text{total value of property secured by the mortgage}} \times \text{total liability secured}$$

= South Australian proportion

**Secondly** to calculate the stamp duty payable on the increase:

Calculate the stamp duty on the new South Australian proportion using the mortgage rate of stamp duty.

Then, Subtract the South Australian stamp duty previously paid\* on the document from the stamp duty payable on the new South Australian proportion.

\* Remember: If the rate of duty payable on the mortgage has changed since it was previously stamped then the further duty is to be calculated as if the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act has always applied.

Note: If the total liability secured has been exceeded but the South Australian Proportion has not been exceeded there is no further stamp duty payable in South Australia. The document does **not** need to be stamped.

### What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- a copy of the stamped document; and
- a statutory declaration or statement stating the:

- total value of the property secured by the mortgage;
- value of the South Australian assets secured;
- the date the security was exceeded; and
- the total liability secured.

### **Example 1 – Multi-jurisdictional Proportional Stamping Increase originally stamped prior to 1 October 2003**

On 2 August 2000, the mortgage has been stamped to secure the South Australian proportion of \$625,000 (ie. \$2,177.50 stamp duty payable). At the time that the document was stamped the details of the assets and total liability secured were:

South Australian assets	\$1,000,000
Total assets	\$4,000,000
Total liability secured	\$2,500,000

NB: Had the mortgage been stamped to secure \$625,000 on or after 1 July 2008, the stamp duty would have been \$938.50.

On 2 July 2008, the mortgagors borrow additional funds from the bank, which increases the total liability secured to \$3,500,000. The security provided for the total mortgage package is:

South Australian assets	\$2,000,000
Total assets	\$6,000,000

A two step process is required to calculate the stamp duty:

**Firstly**, calculate the new South Australian Proportion as follows:

$$\frac{\$2,000,000}{\$6,000,000} \times \$3,500,000 = \$1,166,667 \text{ (rounded to } \$1,166,700)$$

**Secondly**, calculate the stamp duty on the increase:

Calculate the stamp duty on \$1,166,700 using the mortgage rates of stamp duty (ie \$1,751.05 stamp duty is payable).

\$1,751.05 - \$938.50 (being the stamp duty payable on the previous security had the document been stamped on or after 1 October 2003) = \$812.55 stamp duty payable on the increase in the South Australian proportion.

### **Example 2 – Multi-jurisdictional Proportional Stamping Increase originally stamped on or after to 1 July 2008**

On 1 July 2008, the mortgage has been stamped to secure the South Australian proportion of \$625,000 (ie. \$938.50 stamp duty payable). At the time that the document was stamped the details of the assets and total liability secured were:

South Australian assets	\$1,000,000
Total assets	\$4,000,000
Total liability secured	\$2,500,000

On 2 July 2008, the mortgagors borrowed additional funds from the bank, which increases the total liability secured to \$3,500,000. The security provided for the total mortgage package is:

South Australian assets	\$2,000,000
Total assets	\$6,000,000

A two step process is required to calculate the stamp duty:

**Firstly**, calculate the new South Australian Proportion as follows:

$$\frac{\$2,000,000}{\$6,000,000} \times \$3,500,000 = \$1,166,667 \text{ (rounded to } \$1,166,700)$$

**Secondly**, calculate the stamp duty on the increase:

Calculate the stamp duty on \$1,166,700 using the mortgage rates of stamp duty (ie \$1,751.05 stamp duty is payable).

\$1,751.05 - \$938.50 (duty at \$0.15/\$100 currant rate) = \$812.55 stamp duty payable on the increase in the South Australian proportion.

**What section of the SD Act applies?**

Section 81B  
Schedule 2, Mortgage Head of Duty